



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**

Appellate and Supreme Court Litigation Branch  
Washington, D.C. 20570

February 21, 2025

**VIA CM/ECF**

Molly C. Dwyer  
Clerk of Court, U.S. Court of Appeals  
for the Ninth Circuit  
P.O. Box 193939  
San Francisco, CA 94119-3939

Re: *Cemex Construction Materials Pacific, LLC v. NLRB*,  
9th Cir. Nos. 23-2081, 23-2302, 23-2377  
Oral argument held October 21, 2024

Dear Ms. Dwyer:

The Board respectfully notifies the Court that it no longer presses the argument in its brief regarding the constitutionality of the removal protections for Board administrative law judges. (Board-Br.17.) That said, the Board continues to maintain its position that the challenges to those statutory removal protections are not properly before the Court under Section 10(e) of the Act. (Board-Br.15-16.) The Board also maintains that even if those issues were properly before the Court, they would nonetheless fail because Cemex has not met the causal-harm requirement for such claims. (Board-Br.16.)

Very truly yours,

/s/ Ruth E. Burdick

Ruth E. Burdick  
Deputy Associate General Counsel  
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cc: all counsel (via CM/ECF)